



Shipping Business Unit Industry Bulletin

Number 1 of 2021 – *Fair Work Act 2009* Obligations and Coastal Trading

Reminder

Foreign-vessels conducting coastal trade under temporary licences are required to pay Schedule A wages when vessels have made at least 3 voyages under a temporary licence in the past 12 months. Are the vessels you are using for voyages under your temporary licence complying?

Notice to all Temporary Licence Holders

The Shipping Business Unit (SBU) reminds Temporary Licence Holders to take steps to confirm the operators of vessels used for coastal trading meet their obligations under the *Fair Work Act 2009* (the Fair Work Act). This includes ensuring vessel operators are aware they may have Fair Work Act obligations.

To ensure seafarers are paid appropriately, Temporary Licence Holders should have a clear understanding of these regulatory requirements and understand their obligations under the law.

The Fair Work Ombudsman (FWO) administers the Fair Work Act and fair work instruments (including Modern Awards). This includes:

- confirming ship compliance with a Modern Award
- monitoring compliance with method and frequency of Award payment
- ensuring compliance with employer obligations in relation to employee records and pay slips

The Seagoing Industry Award 2020 (the Seagoing Award), sets out additional measures for seafarer wages. Schedule A of the Seagoing Award applies to foreign-vessels conducting coastal trade under temporary licences under the *Coastal Trading (Revitalising Australian Shipping) Act 2012* (Coastal Trading Act).

Schedule A wages apply when vessels have made at least 3 voyages under a temporary licence in the past 12 months. Schedule A wages would apply from the third voyage onwards and does not need to be under the same temporary licence.

Schedule A wages apply during laden voyage duration only, from the time of loading to the time of discharge. The amount payable under Schedule A is the difference between a seafarer's usual salary and the full Schedule A entitlement.

Coastal trading is the movement of cargo or passengers on ships ***between ports in different states and territories in Australia*** in connection with a commercial activity under the Coastal Trading Act.

How does this affect me?

While it is the responsibility of the employer of labour (usually the ship-owner or operator) to ensure the proper wages are being paid to seafarers, as a Temporary Licence Holder you should take steps to confirm the operator of the vessel you use is aware of their Fair Work Act obligations.

Section 550 of the *Fair Work Act* provides that a person who is 'knowingly involved in' a contravention of a civil remedy provision is taken to have contravened that provision and is exposed to penalties and other orders flowing from that contravention.

The Fair Work Act and FWO's Compliance and Enforcement Policy can be found on the Fair Work Ombudsman [website](#).

If you require further information or assistance, please contact the Fair Work Ombudsman at: maritime@fwo.gov.au.